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December 14, 2007

Via Facsimile

Hon. Harold Baer, Jr.
 United States District Court
 Southern District of New York
 500 Pearl Street
 New York, New York 10007

Re: U.S. v. Derek Mui et al.
 07 CR 46-04 (HB)

Your Honor:

I represent Derek Mui in the above-referenced matter and write in connection with his upcoming sentencing. It had been my understanding, based upon Magistrate Judge Maas's order on September 19, 2007, that Mr. Mui's sentencing was scheduled for December 19, 2007. It was not until yesterday, when I contacted the Court to confirm the sentencing on the 19th, that I learned from chambers that Your Honor is away until December 26, 2007, and that the Court had adjourned Mr. Mui's sentencing to December 27, 2007.

Please be advised that I was never notified of this adjournment, and there is no reflection of it on the ECF calendar, a copy of which I have attached to this letter. I was prepared to go forward on December 19th as scheduled, and am now in a difficult position because I am not available to appear on December 27th due to a long-standing vacation planned for that Christmas week. Additionally, I have been unable to reach the Court's calendar clerk, Mr. Swain, regarding this scheduling confusion, as I understand he is also away until December 26th.

In light of these circumstances, I respectfully request an adjournment of Mr. Mui's sentencing to a date in January, 2008. I will contact the Court from out of town on December 26th, when Your Honor and Mr. Swain have returned, to discuss a day in January for the sentencing. I have consulted with AUSA David O'Neil, and he consents to this request.

If the Court has any questions regarding this matter, please contact my office. Thank you for your consideration.

Respectfully submitted,

David Smith
David Smith

Enc.

Cc: AUSA David O'Neil

Granted.

David Smith 12/17/07